

JAN 27 2006**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT****UNITED STATES OF AMERICA,****Plaintiff - Appellee,****v.****EVELYN CUIZON RELATOS,****Defendant - Appellant.****No. 04-55958****D.C. Nos. CV-04-03979-GAF
CR-00-01160-GAF-04****AMENDED ORDER***

**Appeal from the United States District Court
for the Central District of California
Gary A. Feess, District Judge, Presiding**

**Argued and Submitted December 7, 2005
Filed December 15, 2005
Amended January 27, 2006
Pasadena, California**

Before: BEEZER, HALL, and WARDLAW, Circuit Judges.

We affirm the district court's denial of Relatos's 28 U.S.C. § 2255 motion.

**The motion was not filed within the one-year limitations period and is therefore
untimely. 28 U.S.C. § 2255. Section 2255(4) is inapplicable because Relatos**

*** This disposition is not appropriate for publication and may not be
cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.**

knew the predicate facts, if not their legal significance, more than one year before her filing. *See Hasan v. Galaza*, 254 F.3d 1150, 1154 & n.3 (9th Cir. 2001).

Furthermore, Relatos's argument for equitable tolling of the limitations period fails because she has not shown that "extraordinary circumstances beyond [her] control" precluded her from timely filing her § 2255 motion. *See United States v. Battles*, 362 F.3d 1195, 1197 (9th Cir. 2004). Because Relatos's motion was untimely filed, we do not reach the merits of her ineffective assistance of counsel claim.

AFFIRMED.